REMARKS

The current patent application has been reviewed in light of the Office Action, dated February 6, 2007, (hereinafter "the office action") in which: claim 14 stands objected to because of informalities, claims 1-2, 6-8, and 12-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 4,432,017 to Stoffel et al. (hereinafter "Stoffel"), claims 1, 3, 4, 6, and 9-10 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 6,522,356 to Wantanabe et al. (hereinafter "Wantanabe") and claims 5 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Stoffel and well known art. Reconsideration of the above-referenced patent application in light of the foregoing amendments and following remarks is respectfully requested.

Claims 1-31 are pending. Claims 1, 2, 3, 5, 6, 7, 9, 12, 14, 15, 17, 18, and 20 have been amended. No claims have been canceled. The above amendments are made without prejudice or disclaimer. New claims 21-31 are added.

CLAIM OBJECTIONS

In the office action, the Examiner objected to claim 14 because of informalities. Claim 14 is amended to address the Examiner's objection. The amendment was made merely to correct the informalities and does not narrow claim scope in any way. Assignee respectfully requests that the Examiner withdraw his objection to the claim 14.

REJECTION UNDER 35 U.S.C. §102(b)

In the Office Action, the Examiner rejected claims 1-2, 6-8, and 12-20 under 35 U.S.C. §102(b) as being anticipated by Stoffel. Assignee traverses the claim rejections for the reasons explained herein, and therefore respectfully submits that claims 1-2, 6-8, and 12-20 are allowable over Stoffel.

In order for a proper rejection under 35 U.S.C. §102(b) to stand, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently

described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053* (Fed. Cir. 1987) (See MPEP § 2131)

With respect to claim 1, as amended, Assignee respectfully submits that Stoffel at least does not disclose or suggest creating a low resolution image by outputting pixel signals from one of two rows of image sensors without using pixel signals from the other row. Additionally, claim 2 depends from claim 1 and therefore distinguishes from Stoffel on at least the same or similar basis as claim 1. Therefore, Assignee respectfully submits that the rejection of claims 1 and 2 under 35 U.S.C. §102(b) as being anticipated by Stoffel is traversed. It is respectfully requested that this rejection of claims 1 and 2 on the grounds set out above be withdrawn.

Claim 6, as amended, distinguishes from Stoffel on a similar basis. Additionally, claims 7 and 8 depend from claim 6 and therefore distinguish from Stoffel on at least the same basis claim 6. Therefore, Assignee respectfully submits that the rejection of claims 6-8 under 35 U.S.C. §102(b) as being anticipated by Stoffel is traversed. It is respectfully requested that this rejection of claims 6-8 on the grounds set out above be withdrawn.

Claim 15, as amended, distinguishes from Stoffel on a similar basis. Additionally, claims 16 and 17 depend from claim 15 and therefore distinguish from Stoffel on at least the same basis as claim 15. Therefore, Assignee respectfully submits that the rejection of claims 15-17 under 35 U.S.C. §102(b) as being anticipated by Stoffel is traversed. It is respectfully requested that this rejection of claims 15-17 on the grounds set out above be withdrawn.

Claim 18, as amended, distinguishes from Stoffel on a similar basis. Additionally, claims 19 and 20 depend from claim 18 and therefore distinguish from Stoffel on at least the same basis as claim 18. Therefore, Assignee respectfully submits that the rejection of claims 18-20 under 35 U.S.C. §102(b) as being anticipated by Stoffel is traversed. It is respectfully requested that this rejection of claims 18-20 on the grounds set out above be withdrawn.

REJECTION UNDER 35 U.S.C. §102(e)

The Examiner has further rejected claims 1, 3, 4, 6, and 9-10 under U.S.C. §102(e) as being anticipated by Wantanabe. Assignee traverses the claim rejections for the reasons explained herein, and therefore respectfully submits that claims 1, 3, 4, 6, and 9-10 are allowable over Watanabe.

As above for 35 U.S.C. §102(b), a proper rejection under 35 U.S.C. §102(e) sets out that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053* (Fed. Cir. 1987) (See MPEP § 2131)

With respect to claim 1, as amended, Assignee respectfully submits that Wantanabe at least does not disclose or suggest creating a low resolution image by outputting pixel signals from one of two rows of image sensors without using pixel signals from the other row. Additionally, claims 3 and 4 depend from claim 1 and therefore distinguish from Wantanabe on at least the same basis as claim 1. Therefore, Assignee respectfully submits that the rejection of claims 1, 3 and 4 under 35 U.S.C. §102(e) as being anticipated by Wantanabe is traversed. It is respectfully requested that this rejection of claims 1, 3 and 4 on the grounds set out above be withdrawn.

Claim 6, as amended, distinguishes from Wantanabe on a similar basis. Additionally, claims 9 and 10 depend from claim 1 and therefore distinguish from Wantanabe on at least the same or similar basis as claim 1. Therefore, Assignee respectfully asserts that the rejection of claims 6, 9 and 10 under 35 U.S.C. §102(e) as being anticipated by Wantanabe is traversed. It is respectfully requested that this rejection of claims 6, 9 and 10 on the grounds set out above be withdrawn.

CLAIMS REJECTIONS 35 USC § 103

In the office action, the Examiner rejected claims 5 and 11 under 35 U.S.C. 103(a) as being unpatentable over Stoffel and "old and well known" art. Assignee respectfully submits that the

Examiner failed to make a *prima facie* case of obviousness. Therefore, Assignee respectfully traverses the claim rejections for the reasons explained herein.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met. "First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." (*See* MPEP § 2143)

Assignee respectfully submits that Stoffel does not teach or disclose all of the claim limitations of claim 1, from which claim 5 depends. For example, Stoffel at least does not disclose or suggest creating a low resolution image by outputting pixel signals from one of two rows of image sensors without using pixel signals from the other row. Thus, the Examiner's "Official Notice" of "old and well known" art, even assuming it were proper, which Assignee disputes below, does not cure these defects in Stoffel. Therefore, Assignee respectfully requests that the rejection of claim 5 be withdrawn.

Assignee respectfully submits that Stoffel does not teach or disclose all of the claim limitations of claim 6 from which claim 11 depends. Again, Stoffel at least does not disclose or suggest creating a low resolution image by outputting pixel signals from one of two rows of image sensors without using pixel signals from the other row. Additionally, the Examiner's "Official Notice" of old and well known art, even if proper, which we dispute, does not cure these defects in Stoffel. Therefore, Assignee respectfully requests that the rejection of claim 11 be withdrawn.

It is noted that the Examiner stated in the office action that Assignee failed to timely traverse the "old and well known" statement and that the statement is now taken as admitted prior art. Assignee respectfully disagrees with the Examiner's position on a number of grounds.

First, Assignee did traverse the Examiner's statement. Therefore, per the MPEP section cited by the Examiner, the burden was on the Examiner to state why this traversal was inadequate, which the Examiner has failed to do. In addition, even though a traversal was provided, the MPEP section does not require such a traversal in instances such as this. More specifically, the Examiner's Official Notice was not directly relevant to the rejection since the Examiner did not assert the Official Notice in conjunction with other cited documents to make the rejection. Specifically, in the prior office action, the Examiner did not combine the subject matter he considered to be known to make a rejection under section 103. Rather, in the rejection the Examiner merely relied on Stoffel and ***argued*** that Stoffel might be modified. Thus, the Official Notice was not ***factually*** at issue with respect to the rejection. For MPEP section 2144.03 to apply, the Examiner must rely on the subject matter being known ***to make the rejection*** (see 2144.03). Again, here, the Examiner made a legal argument. He did not rely on a factual assertion. For example, the Examiner must make it clear that he is attempting to make a rejection based on a combination that includes the Official Notice. This did not occur here. Third, the Examiner did not make clear his technical or scientific line of reasoning to support his statement regarding what he believed to be common knowledge (see 2144.03(b)). Thus, the Examiner failed to meet the requirements necessary for him to take Official Notice and to do so was improper. Fourth, in general, it is not proper to take a matter as deemed to be admitted where prosecution on the merits is still on-going and has not terminated. For example, the patentee is entitled to rescind the prosecution record later, so logically, the patentee should be also free to challenge factual assertions since prosecution on the merits is not over. (See Hakin v. Canon-Avent (Fed. Cir. 2007)).

However, despite the above, Assignee again traverses the Examiner's taking of Official Notice and respectfully requests that the Examiner produce documentation supporting the assertion "that it is well known in the art to output said pixel signals from said consecutive photocells of one said linear image sensor into an analog/digital converter."

In summary, while Assignee believes that the claimed subject matter may be patentably distinguished from the applied documents for additional reasons; the forgoing is believed to be sufficient to overcome the Examiner's rejections. Likewise, it is noted that the Assignee's failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions. Rather, it is believed that the Examiner's positions are rendered moot by the foregoing and, therefore, it is believed not necessary to respond to every position taken by the Examiner with which Assignee does not agree. Reconsideration of the above referenced patent application in view of the above remarks is respectfully requested.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Reconsideration and allowance of all the claims are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone the attorney below at (503) 439-6500 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 50-3703.

Respectfully submitted,

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